

To: Knapp, Michael[Knapp.Michael@epa.gov]
From: Blake, Ellen
Sent: Mon 2/2/2015 6:19:20 PM
Subject: FW: Proposed Comment in Env'tl. World Watch v. Disney, No. 09-4045 (C.D.Cal.)
LPS-#239466-v2-cit suit environmental world watch v walt disney commentdoc
Env'tl. World Watch v. Walt Disney (CD Cal.) - Settlement Agreement.pdf
Env'tl. World Watch v. Walt Disney (CD Cal.) -Order on Cross-Motions for SJ (Sept. 2013).pdf

Sorry, meant to cc you also. I'll let you know if/when I hear back from OGC.

Ellen Blake

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From: Blake, Ellen
Sent: Monday, February 02, 2015 9:58 AM
To: Levine, MaryEllen; Horwitz, Sylvia
Cc: KERMISH, LAURIE
Subject: FW: Proposed Comment in Env'tl. World Watch v. Disney, No. 09-4045 (C.D.Cal.)

Ex. 5 - Attorney Client

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From: Kermish, Laurie

Sent: Sunday, February 01, 2015 11:12 AM

To: Blake, Ellen

Subject: FW: Proposed Comment in Env'tl. World Watch v. Disney, No. 09-4045 (C.D.Cal.)

Laurie Kermish

CWA Section Chief

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kermish.laurie@epa.gov

From: Ennis, Christine (ENRD) [<mailto:Christine.Ennis@usdoj.gov>]

Sent: Friday, January 30, 2015 1:59 PM

To: Drelich, David; karen.dworkin@usdoj.gov; Friedman, Henry (ENRD); Kermish, Laurie; Knapp, Michael

Cc: justin.smith@usdoj.gov; Woolner, Rhodora (ENRD); Norwood, Richard (ENRD); Sliwinski, Michelle (ENRD)

Subject: Proposed Comment in Env'tl. World Watch v. Disney, No. 09-4045 (C.D.Cal.)

Citizen Suit Region 9 Contacts:

Ex. 5 - Attorney Client

I want to flag for you that the proposed settlement is conditioned on Judge Gee agreeing to vacate her September 23, 2013 summary judgment order. In that order, Judge Gee held that irrigation flows and fire-hose flushing were not exempt from CWA permitting (thereby denying Disney's motion in part), but also that Plaintiffs need to demonstrate that pollutants released into the MS4 actually make it into the Los Angeles River (thereby denying Plaintiff's motion).

Disney's appeal of its summary judgment loss has been accepted for review by the Ninth Circuit; Disney would agree to drop the appeal under the terms of the settlement agreement.

Ex. 5 - Attorney Client

If you have feedback on the proposed comment, please let us know by the end of the day on **Tuesday, February 3**. The settlement agreement and summary judgment order are also attached. We will be speaking with the parties next week (these references are highlighted yellow) and filing on Friday. The DJ Number is 90-1-24-177-02709.

Best regards,

Christine Ennis

From: Ennis, Christine (ENRD) [<mailto:Christine.Ennis@usdoj.gov>]

Sent: Tuesday, January 20, 2015 4:48 PM

To: Drelich, David; karen.dworkin@usdoj.gov; Friedman, Henry (ENRD); Kermish, Laurie; Knapp, Michael

Cc: justin.smith@usdoj.gov; Woolner, Rhodora (ENRD); Norwood, Richard (ENRD)

Subject: RE: REG 09 CWA CITIZEN SUIT SETTLEMENT AGREEMENT FOR REVIEW/COMMENTS. EXPEDITED. ENVIRONMENTAL WORLD WATCH V. DISNEY. REF. NO. DJ 90-1-24-177-02709.

Citizen Suit Region 9 Contacts:

Ex. 5 - Attorney Client

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After cross-summary judgment motions, the only live claims in this case relate to

whether Disney violated the CWA with respect to non-storm water runoff from irrigation and fire-line flushing for which it does not have a NPDES permit (see Order on Cross-Motions for SJ starting at page 24). The Ninth Circuit has accepted Disney's interlocutory appeal of this remaining claim (see attached Petition for Appeal), which Disney has now agreed to drop pursuant to the settlement agreement in exchange for dismissal with prejudice.

If you have thoughts about the merits of the remaining claims, the sufficiency of the injunctive relief, or about the potential for an unfavorable outcome from the interlocutory appeal, please let me know by **January 23**. Note also that the same or a similar case appears to have been filed at least twice under the False Claims Act; both times the United States declined to participate.

Best regards,

Christine Ennis

From: Woolner, Rhodora (ENRD)

Sent: Tuesday, January 20, 2015 4:55 PM

To: Ennis, Christine (ENRD); Norwood, Richard (ENRD); Drelich, David; Dworkin, Karen (ENRD); Friedman, Henry (ENRD); Kermish, Laurie; Knapp, Michael

Cc: Smith, Justin (ENRD)

Subject: REG 09 CWA CITIZEN SUIT SETTLEMENT AGREEMENT FOR REVIEW/COMMENTS. EXPEDITED. ENVIRONMENTAL WORLD WATCH V. DISNEY. REF. NO. DJ 90-1-24-177-02709.

Reviewers:

Please review the attached proposed settlement agreement. Provide comments to Christine Ennis <mailto:christine.ennis@usdoj.gov> and to Richard Norwood <mailto:richard.norwood@usdoj.gov> by COB 01/23/2015.

Thank you,

Rhodora N. Woolner, SAS

Environment & Natural Resources Division

Law & Policy Section

RFK 2610

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